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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,133	03/25/2004	Joseph E. Firebaugh	4541-017	7696

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

EXAMINER
PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
2164	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/809,133	FIREBAUGH ET AL.
	Examiner	Art Unit	
	Sathyanarayan Pannala	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>04 January 2008</u>.
2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-16</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-16</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicant's Amendment filed on 1/4/2008 has been entered including amended

claims 1, 10,14-15. In this Office Action, claims 1-16 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
>
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

   • Claim 12-13, line 4, stated as "CONTAINER", applicant is claiming a data type

      definition statement.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. § 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
>
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
>
> conditions and requirements of this title.

5.   Claims 1-16 are rejected under 35 U.S.C. § 101, because claims are directed to

program per se. Independent claims 1, 10, 15 are claiming a computer program per se

and nonfunctional descriptive material consisting of data structures and computer

programs, which impart functionality when employed as a computer component. As

such, the claims are not limited to statutory subject matter and are therefore non-

statutory. In Sarkar, 588 F.2d at 1335, 200 USPQ at 139. See recent court case, In-Re

Comiskey, _____,Fed. Cir., 2007____, decided 9/20/2007. (see MPEP 2106(IV)

(B)(2)(b) (ii)).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.
>
> This application currently names joint inventors. In considering patentability of the claims under 35
> U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly
> owned at the time any inventions covered therein were made absent any evidence to the contrary.
> Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates
> of each claim that was not commonly owned at the time a later invention was made in order for the
> examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior
> art under 35 U.S.C. 103(a).

7.   Claims 1-8, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ramaswamy et al. (US Patent 6,643,629) hereinafter Ramaswamy, in view of De

Boor et al. (US Patent 6,470,381) hereinafter De Boor, and in view of Kameda (US

Patent 6,876,972) hereinafter Kameda.

8.   As per independent claims 1, 15, Ramaswamy teaches as a method for

identifying a predetermined number of outliners of interest in a large data set (col. 1,

lines 39-40). Ramaswamy teaches the claimed, a method of synopsizing large data

sets to facilitate the use of an accessibility system (col. 1, lines 39-45). Ramaswamy

teaches the claimed, providing a large data set (col. 2, lines 12-16). Ramaswamy

teaches the claimed, generating a synopsis of a large data (Fig. 6, col. 2, lines 14-15

and col. 9, line 66 to col. 10, line 3). Ramaswamy does not explicitly teach formatting

large data set in a markup language.   However, De Boor teaches the claimed,

formatting large data set in a markup language data structure (Fig. 1, 7, col. 17, lines

14-15). Further, De teaches the claimed, formatting said synopsis of said large data set

in a synopsis container that includes said large data set and said synopsis of said large

data set (Fig. 1, col. 17, lines 14-15). De Boor teaches the claimed, transmitting

synopsis container to a computer having an accessibility system (col. 30, lines 18-21).

Thus, it would have been obvious to one of ordinary skill in the data processing art at

the time of the invention, to have combine the teachings of the cited references because

De Boor's teachings would have allowed Ramaswamy's method to provide Internet

access via the HyperText Transport Protocol (HTTP), in response to user selection of

data items associated with content located on the Internet (col. 4, lines 16-18).

Ramaswamy and De Boor do not teach output synopsis of large data. However,

Kameda teaches the claimed, the synopsis container operative to cause the

accessibility system to output the synopsis of said large data set (Fig. 1, 2, 6, 9, col. 35,

lines 54-57). Thus, it would have been obvious to one of ordinary skill in the data

processing art at the time of the invention, to have combine the teachings of the cited

references because Kameda's teachings would have allowed Ramaswamy's method

and a system for aiding to make a medical care schedule and/or record, which can aid

or navigate the person, who makes up the medical care schedule and/or record such as

a medical doctor, a nurse, etc., to make an appropriate medical care schedule and/or

record easily and speedily (col. 3, lines 25-30).

9.   As per dependent claim 2, Ramaswamy teaches the claimed, providing a large

data set comprises automatically generating said large data set in response to a user

input   (Fig. 1, col. 2, lines 12-16).

10.   As per dependent claim 3, Ramaswamy teaches the claimed, providing a large

data set comprises retrieving said large data set from storage in response to a user

input (Fig. 3, col. 4, lines 44-49).

11.   As per dependent claim 4, De Boor teaches the claimed, formatting said large

data set for transmission comprises generating markup language data structures to

direct the display of said large data set at a client terminal (col. 6, lines 45-48). Thus, it

would have been obvious to one of ordinary skill in the data processing art at the time of

the invention, to have combine the teachings of the cited references because De Boor's

teachings would have allowed Ramaswamy's method to provide Internet access via the

HyperText Transport Protocol (HTTP), in response to user selection of data items

associated with content located on the Internet (col. 4, lines 16-18).

12.   As per dependent claim 5, Ramaswamy teaches the claimed, generating a

synopsis of said large data set comprises automatically generating said synopsis by

comparing data elements in said large data set to predetermined metrics (Fig. 3, col. 4,

lines 43-54).

13.   As per dependent claim 6, Ramaswamy teaches the claimed, generating a

synopsis of said large data set comprises writing said synopsis by an individual (Fig. 1,

col. 2, lines 37-42).

14.   As per dependent claim 7, De Boor teaches the claimed, formatting said

synopsis of said large data set in a synopsis container comprises generating a markup

language data structure defining said synopsis container (Fig. 7, col. 22, lines 34-52).

15.   As per dependent claim 8, De Boor teaches the claimed, transmitting said
synopsis container comprises transmitting a markup language data structure including
said large data set and said synopsis (col. 30, lines 18-21).

16.   As per independent claim 10, Ramaswamy teaches as a method for identifying a
predetermined number of outliners of interest in a large data set (col. 1, lines 39-40).
Ramaswamy teaches the claimed, a computer readable medium including one or more
computer programs operative to cause a computer to perform the steps (col. 1,
lines 39-45). Ramaswamy teaches the claimed, generating a markup language data
structure initial flag (). Ramaswamy teaches the claimed, generating at least one
attribute comprising a synopsis of said large data (col. 2, lines 12-16). Ramaswamy
does not explicitly teach formatting large data set in a markup language. However De
teaches the claimed, formatting large data set in a markup language data structure
(Fig. 1, 7, col. 17, lines 14-15). De Boor teaches the claimed, generating a data
structure initial tag (HEAD) (Fig. 7). De Boor teaches the claimed, generating a data
structure terminating tag (/HEAD) (Fig. 7). De Boor teaches the claimed, "outputting a
markup language data structure synopsizing the large data set and operative to cause a
computer having an accessibility system" (col. 4, lines 54-61). Thus, it would have
been obvious to one of ordinary skill in the data processing art at the time of the
invention, to have combine the teachings of the cited references because De Boor's
teachings would have allowed Ramaswamy's method to provide Internet access via the

HyperText Transport Protocol (HTTP), in response to user selection of data items
associated with content located on the Internet (col. 4, lines 16-18).

Ramaswamy and De Boor do not teach output synopsis of large data. However,
Kameda teaches the claimed, the synopsis container operative to cause the
accessibility system to output the synopsis of said large data set (Fig. 1, 2, 6, 9, col. 35,
lines 54-57). Thus, it would have been obvious to one of ordinary skill in the data
processing art at the time of the invention, to have combine the teachings of the cited
references because Kameda's teachings would have allowed Ramaswamy's method
and a system for aiding to make a medical care schedule and/or record, which can aid
or navigate the person, who makes up the medical care schedule and/or record such as
a medical doctor, a nurse, etc., to make an appropriate medical care schedule and/or
record easily and speedily (col. 3, lines 25-30).

17.   As per dependent claim 11, De Boor teaches the claimed, computer programs
are further operative to cause a computer to perform the steps of generating a flag
attribute indicating whether or not a computer having an accessibility system should
output said large data set (Fig. 7, col. 22, lines 34-52).

18.   As per dependent claim 12, De Boor teaches the claimed, the computer
programs are further operative to cause a computer to perform the steps of associating
markup language data structure with the keyword CONTAINER (Fig. 7, col. 22,
lines 34-52).

19.   The data structure of claim 13, De Boor teaches the claimed, generating the
markup language data structure initial tag comprises generating the tag <CONTAINER>
(HEAD) (Fig. 7) and generating a markup language data structure terminating tag
comprises generating the tag </CONTAINER> (Fig. 7, col. 22, lines 34-52).

20.   As per dependent claim 14, De Boor teaches the claimed, outputting a markup
language data structure data structure synopsizing the large data set comprises
outputting data formatted as a markup language data structure compatible with the
Hyper-Text Markup Language (Fig. 7, col. 4, lines 54-61, col. 22, lines 34-52).

21.   Claims 9, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Ramaswamy et al. (US Patent 6,643,629) hereinafter Ramaswamy, in view of De Boor
et al. (US Patent 6,470,381) hereinafter De Boor, in view of Kameda (US Patent
6,876,972) hereinafter Kameda, and further in view of Slotznick et al. (USPA Pub.
2002/0178007 A1) hereinafter Slotznick.

22.   As per dependent claims 9, 16, Ramaswamy and De Boor do not teach using a
screen reader. However, Slotznick teaches the claimed, accessibility system is a
screen reader (Page 2, paragraph [0018]). Thus, it would have been obvious to one of
ordinary skill in the data processing art at the time of the invention, to have combine the
teachings of the cited references because Slotznick's teachings would have allowed
Ramaswamy's method to provide Text-to-speech browsers are also an expense for

those in the lower socio-economic levels, frequently costing end users over $100 (col. 4, lines 16-18).

Response to Arguments

23.   Applicant's arguments filed on 8/9/2007 have been fully considered but they are not persuasive and details as follows:

a)   Applicant's argument stated as "how the specification accomplishes this is not material" see Remarks section, page 6, paragraph four.

In response to Applicant argument, Examiner respectfully disagrees, because Applicant is referring to the program code whereas the patents are not given for software and do not read or consider the program code or instructions. See MPEP 2106.

b)   Applicant's argument stated as "The 101 rejections of claims 1-16 are improper and must be withdrawn."

In response to Applicant argument, Examiner respectfully disagrees, because the amendment of claims 1-16 did not overcome the rejection of 35 U.S.C. 101 and the claims are program pre se. Programs or data structures are considered as non-statutory subject matter. Therefore, the rejection of claims 1-16 under 35 U.S.C. 101 is retained. Additionally added, other group of claims 1-9 are also rejected under the same reason.

c)   Applicant's argument stated as "Ramaswamy fails to teach or suggest generating a synopsis of a large data set."

      In response to Applicant argument, Examiner respectfully disagrees, because Ramaswamy does teach, generating a synopsis of a large data as "identifying a predetermined number of outliers of interest in a large data set" (Fig. 6, col. 2, lines 14-15 and col. 9, line 66 to col. 10, line 3).   Further, in response to applicant's argument, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

d)   Applicant's argument stated as "De Boor does not teach or suggest any claimed limitation for which it is cited, including any accessibility functionality, such as a screen reader.

      In response to Applicant argument, Examiner respectfully disagrees partly, because De Boor does not explicitly teach the screen reader and however, Slotznick teaches screen reader at Page 2, paragraph [0018].   Further, in response to applicant's argument, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

24.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sathyanarayan Pannala whose telephone number is

(571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sathyanarayan Pannala/
Primary Examiner

srp
March 28, 2008